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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/002,906	01/05/1998	THEODORE D. WUGOFSKI	450.196US1	8339

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EXAMINER
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TRAN, HAI V

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/002,906

Applicant(s)

WUGOFSKI ET AL.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, and 19-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 07/27/2005 have been fully considered but they are not persuasive.

Applicant argues, "Kostreski teaches each logical channel "Sel" uniquely identifies a corresponding physical channel 'VIP StarSight' for a popular network as CBS, ABC, NBC... It is noted that 'Sel' represent various keys and does not identify a channel as Examiner appears to imply."

In response, the Examiner respectfully disagrees with Applicant because by selecting 'SEL' key 2, the system will tune to CBS regardless of whether the user has previously selected StarSight or BVS. Hence "2" represents a logical channel of CBS regardless CBS is broadcasted from StarSight or BVS.

Applicant further argues, "it's respectfully submitted that there is no discussing in either of the references with respect to different physical devices or with respect to the use of channel map services in determining the corresponding physical channel and physical device much less the use of EPG service to call up the channel map services used to determine the corresponding physical channel and physical device."

In response, the Examiner respectfully disagrees because Kostreski Fig. 5 clearly discloses a relationship of various channel map tables of each broadcaster, i.e., StarSight, BVS, that provides of various services, i.e., CBS, ABC... in which the user press a GUIDE button, the STB display the available information service providers in accordance to the VIP program MAP (see Kostreski Abstract). It's noted that

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Broadcaster reads on physical device source and since Ohkura discloses EPG with favorite channel list related to user specified theme provided from broadcasters.

Therefore, it would have been obvious to combine Ohkura in view of Kostreski so to obtain Applicant's claim limitation.

Applicant further argues, "...it is not seen that the Ohkura patent discloses matching one or more event themes from such EPG content database to a user-selected theme."

In response, the Examiner respectfully disagrees with Applicant and asserts that by selecting a theme, i.e., Movie, the system with automatically searches, matches and retrieves all video program that available from the EPG database with "movie", as theme, and then presents it to user as discloses in Fig. 17.

Applicant further argues, "it is respectfully submitted that Fig. 12 does not show an EPG content database."

In response, the Examiner respectfully disagrees with Applicant because Fig. 12 is a subset of EPG content database which describe a favorite program list. Fig.12 shows the metadata structure of the favorite program list in which the Examiner intends to indicate to Applicant that EPG content database would also have the same metadata structure so to perform the function of searching, matching and retrieving.

Applicant further argues, "it would not be obvious to combine the teaching of Ohkura and Schein '349 patent as proposed."

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references taught about EPG, Ohkura teaches about "theme" and Schein teaches about "sub-theme". Therefore, the combination is obvious so to provide to user an accurate way to query a program with a specific them/sub-theme entry as taught by Schein, Col. 11, lines 15-45).

As such the Examiner maintains the rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-12, 19, 22-25, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkura et al. (US 5737029) in view of Kostreski et al. (US 5734589).

Claim 1, Ohkura discloses a computerized system for managing favorite channels based on a user specified theme, the computerized system comprising:

One or more favorite channel lists (Fig. 12), the favorite channel lists comprising one or more channels relating to the user specified theme (category), wherein the computerized system identifies the channels/programs showing an event of the user specified theme (category) and automatically adds each of channels/programs to the favorite channel list without user intervention (Col. 8, lines 49-Col. 9, lines 37);

Storing one or more favorite channel lists (Col. 8, lines 4-26 and lines 57-62);

A favorites database for storing one or more favorite channel lists (Col. 8, lines 4-26 and lines 57-62).

Ohkura does not clearly disclose one or more logical channels of the favorite channel list related to user specified theme; however, Ohkura shows favorite channel list related to user specified theme.

Kostreski shows one or more logical channel (Fig.5 and Col.28, lines 40-Col.29, lines 34). The secondary program maps 520a and 520b both provide the same RF and PID values for CBS, ABC, NBC and FOX; therefore, Kostreski discloses an arrangement that enables VIPs to share sources within the reserved section 522 (Col.29, lines 14-29 and Col.29, lines 35-Col.30, lines33). Furthermore, Kostreski teaches each logical channel "SEL." uniquely identifies a corresponding physical channel "VIP StarSight "for popular network such as CBS, ABC, NBC and FOX regardless the user select "VIP StarSight" or "VIP BVS" ; Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ohkura by mapping favorite channel listed to corresponding logical

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(virtual) channels, as taught by Kostreski, in order to present to user an list of programs (EPG) in an organized, structured format adapted for ease of use by the user as suggested by Kostreski (Col.3, lines 15-57); moreover enable user to conveniently access the broadband services in an organized, structured format offered by the selected information service providers.

Regarding claim 2, Ohkura further discloses an EPG content database storing a plurality of events available on one or more channels for a period of time because the EPG content is updated either "periodically", "cyclical" or "carrousel" mode by the headend in which the favorite channel list depends on the newly updated EPG data for identifying newly updated Channels (Col. 5, lines 15-20 and Col. 8, lines 4-26).

Regarding claim 3, Ohkura further discloses wherein the user specified theme corresponds to a theme field of events in an EPG content database (Col. 9, lines 38-Col. 10, lines 25).

Regarding claim 4, Ohkura further discloses an EPG data services for managing the EPG content Database, the EPG data services providing functions for loading EPG –type (category) data from one or more data services (Col. 5; lines 10-20);

Regarding claim 5, Ohkura further discloses a favorites service providing one or more user interfaces and a plurality of management functions for each one of the favorite channel lists (Fig. 16-21; Col. 8, lines 38-Col. 11, lines 18).

Regarding claim 6, Ohkura further discloses wherein the management functions include at least one function selected from the group of functions consisting of: adding a favorite event to one of the favorite channel lists, removing a favorite event from one of the favorite channel lists and selecting a favorite event from one of the favorite channel lists (inherently met because the system keeps monitoring and updating by adding/removing/selecting the top 5 broadcasting channels of each category that have been most received/selected by users in the last 4 weeks; Col.8, lines 8-27).

Regarding claim 7, Kostreski further discloses a channel map service for determining a physical channel number and a corresponding physical device for each one of the logical channels (Fig.5).

Regarding claim 8, see analysis of claim 1, in combination with claims 5-7.

Regarding claim 9, see analysis of claim 7.

Regarding claim 10, see analysis of claim 6.

Regarding claim 11, see analysis of claim 1.

Regarding claim 12, see analysis of claim 2.



Regarding claim 19, in combination with claims 1 and 3, regarding "identifying one or more channels showing an event of a user specified theme, wherein the step of identifying is achieved by matching one or more event themes from an EPG content database to the user specified theme," the Examiner cites (Ohkura Fig. 16 shows list of favorite channels corresponding to theme/category News; Fig. 17 shows list of favorite channels corresponding to theme/category MOVIE... Col. 10, lines 15-27); regarding "automatically adding each of the channel to a favorite channel list wherein such adding does not require user intervention", the Examiner cites Ohkura Col. 18, lines 48-Col. 9, lines 37).

Regarding claims 22 and 28, Ohkura further discloses an EPG content database storing a plurality of events available on one or more channels for a period of time because the EPG content is updated either "periodically", "cyclical" or "carrousel" mode by the headend in which the favorite channel list depends on the newly updated EPG data for identifying newly updated Channels. (Col. 5, lines 15-20 and Col. 8, lines 4-26).

Regarding claims 23 and 29, Ohkura further discloses the step of identifying is achieved by matching one or more words in an event description from the EPG content Database to the user specific theme (Ohkura Fig. 16 shows list of favorite channels corresponding to theme/category News; Fig. 17 shows list of favorite channels corresponding to theme/category MOVIE... Col. 10, lines 15-27 in which

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the system will match the desired user specific theme/category with one or more words in an event description, i.e., C1..C5 from the EPG content Database of Fig. 12).

Regarding claim 24, as analyzed with respect to claim 1, Ohkura further discloses a computer (motherboard, processor, RAM, etc... Fig. 3) comprising:

A processor (29);

A computer readable medium (38,37,36);

A plurality of computer instructions (Fig. 11; Computer flowchart represents computer instructions) executed from the computer readable medium by the processor for performing the step of identifying one or more channels showing an event of a user specified theme (Fig. 14) and automatically adding each one of the channels to a favorite channel list without user intervention (Col. 7, lines 65-Col. 8, lines 26).

Regarding claim 25, see analysis of Claim 24 and Ohkura further discloses the step of identifying is achieved by matching one or more words showing an event description from the EPG content Database to the user specific theme (Ohkura Fig. 16 shows list of favorite channels corresponding to theme/category News; Fig. 17 shows list of favorite channels corresponding to theme/category MOVIE... Col. 10, lines 15-27 in which the system will match the desired user specific theme/category

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with one or more words in an event description, i.e., C1..C5 from the EPG content Database of Fig. 12).

2. Claims 20-21, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkura et al. (US 5737029) in view of Kostreski et al. (US 5734589) and further in view of Schein (US 6002394).

Regarding claims 20 and 21, Ohkura in view of Kostreski further discloses wherein the user specified theme corresponds to a theme field of events in an EPG content database (Ohkura Col. 9, lines 38-Col. 10, lines 25). Ohkura discloses the step of identifying is achieved by matching theme from an EPG content database to the user specified theme by selecting a "theme" from the EPG, the system performs a matching and then presents the result to the user.

Ohkura does not clearly discloses the EPG content database include 'event sub-theme' or 'generic event sub-theme' as claimed;

Schein 's 394 shows the structure of an EPG database with theme ID (see Fig.4) that corresponds to 'Theme ID of a Theme Category Table' (Fig. 8).

Moreover the Theme Category Table (Fig. 8) has a relational field 'Theme Sub-category handle Table' which has a relationship with the 'Theme ID #' field of the Theme Subcategory table (Fig.9; Col. 10, lines 60-Col. 11, lines 11) according to the well-known Relational Database's theory. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ohkura in view of Kostreski with Schein 's 394 to have an EPG content database include

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'event sub-theme' or 'generic event sub-theme', as taught by Schein 's 394, so to provide to user an accurate way to present/query a program with a specific theme/sub-theme entry (Schein 's 394; Col. 11, lines 15-45).

Regarding claims 26 and 27, see analysis of claims 20-21.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht  
10/14/2005

  
**HAI TRAN**  
**PRIMARY EXAMINER**